IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 25TH JANUARY 2007 / 5TH MAGHA 1928

WP(C).No. 2951 of 2007()

I.A.167/07 IN OS 76/2000 OF MUNSIFF COURT, TIRUR

PETITIONER:

KALTHIL PARAMBIL SATHEESAN
S/O.KRISHNAN NAIR, AGED 31 YEARS,
KALATHIPARAMBIL HOUSE, P.O.OZHUR, TIRUR TALUK,
MALAPPURAM DISTRICT.

BY ADV. SRI.K.RAMACHANDRAN

RESPONDENTS:

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1. ANIMANGALATH KALYANI @ SHINNAMALU AMMA,
D/O.THEYI @ PARAVATHI AMMA, ANIMANGALATH HOUSE,
P.O.OZHUR, TIRUR, MALAPPURAM DISTRICT.

2. SHARADHA AMMA, D/O.PARU AMMA,
ANIMANGALATH HOUSE, DO. DO.

3. CHANDRAN NAIR, S/O PARU AMMA, DO. DO.

4. SREEDHARAN, DO. DO.

5. AMMINI, D/O.PARU AMMA, DO. DO.

BY //

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO.2951 OF 2007

Dated 25th January 2007

J U D G M E N T

Petitioner is third defendant in O.S.76/2000 on the file of Munsiff court, Tirur. Respondents are plaintiffs. After closing the evidence of plaintiffs, defendants filed I.A.167/07, an application to receive three documents as evidence under Order XIII Rule 1 and 2 of Code of Civil Procedure. Learned Munsiff under Ext.P1 order dated 22/1/2007, dismissed the application holding that purpose of the amendment to C.P.C will be defeated, if petition is allowed, as documents were not produced before plaintiffs were examined.

2. Learned counsel appearing for petitioner was heard.

3. Argument of learned counsel appearing for petitioner is that first document sought to be received as evidence is copy of plaint filed by some of the plaintiffs and when PW1 was in the box, he was asked about the plaint and in such circumstance,

learned Munsiff should have received the same. It was also pointed out that other documents are certified copy of survey plan as well as certified Adangal extract and no oral evidence was necessary to mark those documents and defendants did not want any oral evidence to be recorded and in such circumstance, learned Munsiff may be directed to receive the documents as evidence.

4. For the sole reason that documents were produced belatedly, learned Munsiff is not to shut out the evidence and warrant a remand at a belated stage, if documents are relevant and necessary. In the affidavit filed in support of I.A.167/07, defendants have shown why the documents were not produced earlier. In such circumstance, learned Munsiff is directed to receive the documents and admit them as evidence, if they are admissible in evidence. It is made clear that defendants are not entitled to adduce further oral evidence on this ground.

Writ petition is disposed accordingly.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.